

Senate Bill No. 1519

Passed the Senate August 19, 2008

Secretary of the Senate

Passed the Assembly August 12, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 53075.7, 53075.8, and 53075.9 to the Government Code, relating to taxicabs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1519, Yee. Local governments: taxicabs.

(1) Existing law requires every city or county to adopt an ordinance or resolution regarding taxicab transportation service, including, but not limited to, provisions for a policy for the entry into the business of providing taxicab transportation service and for the establishment or registration of rates for the provision of that service.

This bill would require the local agency, defined as the local entity responsible for the regulation of, and enforcement of, rules, regulations, or ordinances governing, taxicabs within the local jurisdiction, upon receipt of a complaint containing sufficient information to warrant conducting an investigation, to investigate any business that advertises a taxicab transportation service for hire identified in the complaint. The bill would require the local agency, by ordinance, resolution, or other appropriate procedure, to adopt criteria that establishes the type of information, if contained in a complaint, that is sufficient to warrant an investigation.

This bill would also require every taxicab transportation service to include the number of its certificate, license, or permit in every written or oral advertisement, as defined, of the services it offers, and would authorize the local agency to impose a fine of not more than \$5,000 if it finds, after a hearing, that a person or corporation is operating as a taxicab transportation service without a valid certificate, license, or permit, or fails to include the number of the certificate or permit in any written or oral advertisement.

(2) Existing law provides for the termination of telephone service by a telephone corporation or telegraph corporation to a charter-party carrier of passengers without a valid certificate or permit, pursuant to specified procedures by the Public Utilities Commission.

This bill would provide for the termination of telephone service by a telephone corporation or telegraph corporation to a taxicab transportation service without a valid certificate, license, or permit and places enforcement of this prohibition with the local agency. By imposing a new or higher level of service upon local governments, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 53075.7 is added to the Government Code, to read:

53075.7. (a) Upon receipt of a complaint containing sufficient information to warrant conducting an investigation, the local agency shall investigate any business that advertises or operates taxicab transportation service for hire. The local agency shall, by ordinance, resolution, or other appropriate procedure, adopt criteria that establishes the type of information, if contained in a complaint, that is sufficient to warrant an investigation. Pursuant to this investigation, the local agency shall do all of the following:

(1) Determine which businesses, if any, are required to have in effect a valid taxicab certificate, license, or permit as required by ordinance, but do not have that valid authority to operate.

(2) Inform any business not having valid authority to operate that it is in violation of law.

(3) Within 60 days of informing the business pursuant to paragraph (2), institute civil or criminal proceedings, or both, pursuant to the governing municipal code or other authority of jurisdiction.

(b) For purposes of this section:

(1) "Advertises" means any action described in subdivision (b) of Section 53075.9.

(2) "Local agency" means the local entity responsible for the regulation, including, but not limited to, the certification, licensing,

or permitting of, and enforcement of rules, regulations, or ordinances governing, taxicabs within the local jurisdiction.

SEC. 2. Section 53075.8 is added to the Government Code, to read:

53075.8. (a) The Legislature finds and declares that advertising and use of telephone service is essential for a taxicab transportation service to obtain business and conduct intrastate passenger transportation services. Unlawful advertisements by taxicabs operating without a valid taxicab certificate, license, or permit required by any ordinance has resulted in properly certificated, licensed, and permitted taxicab operators competing with these taxicabs operating without a proper taxicab certificate, license, or permit using unfair business practices. Taxicabs operating without a proper taxicab certificate, license, or permit have also exposed passengers to unscrupulous persons who portray themselves as lawful operators. Many of these taxicabs operating without a proper taxicab certificate, license, or permit have been found to have also been operating without insurance, or in an unsafe manner, thereby placing their passengers at risk.

(b) (1) The Legislature further finds and declares that the termination of telephone service utilized by taxicabs operating without proper authority is essential to ensure the public safety and welfare. Therefore, local agencies should take enforcement action, as specified in this section, to disconnect telephone service of unauthorized taxicab operators who unlawfully advertise passenger transportation services in yellow page directories and other publications. The enforcement actions provided for by this section are consistent with the decision of the California Supreme Court in *Goldin v. Public Utilities Commission* (1979) 23 Cal. 3d 638.

(2) For purposes of this section, a telephone corporation or telegraph corporation, or a corporation that holds a controlling interest in the telephone or telegraph corporation, or any business that is a subsidiary or affiliate of the telephone or telegraph corporation, that has the name and address of the subscriber to a telephone number being used by a unauthorized taxicab operator shall provide the local agency, or an authorized officer or employee of the local agency, upon demand, and the order of a magistrate, access to this information. A magistrate may only issue an order

for the purposes of this subdivision, if the magistrate has made the findings required by paragraph (2) of subdivision (f).

(c) (1) In addition to any other remedies that may be available by law, if a local agency determines that a taxicab transportation service has operated within the local agency's jurisdiction in violation of the local agency's ordinance adopted under Section 53075.5, the local agency may notify the taxicab operator that the local agency intends to seek termination of the operator's telephone service. The notice shall be sent by certified mail to the operator at the operator's last known mailing address. If the local agency is unable to determine the operator's mailing address, the local agency shall post the notice for at least 10 calendar days.

(2) The notice shall contain sufficient information to identify the taxicab transportation service, to inform the taxicab operator of the alleged violations of the local agency's ordinance, and the procedures for protesting the allegations contained in the notice.

(d) The taxicab operator, within 10 calendar days of the date of the notice, may contest the allegations contained in the notice by filing a written protest with the local agency. The local agency shall schedule a hearing on the protest within 21 calendar days of receiving the protest.

(e) The governing body of the local agency, or any person or persons as may be designated by the governing body, shall hear the protest. The local agency shall have both the burden of providing that the use made, or to be made, of the telephone service is to hold out to the public to perform, or to assist in performing, services as a taxicab transportation service, and that the telephone service is being, or is to be, used as an instrumentality, directly or indirectly, to violate, or assist in violating, the local agency's applicable ordinance. The taxicab operator, or his or her designated representative, shall be allowed to present evidence to answer or refute any allegations presented to the hearing body by the local agency. The hearing body may continue the hearing from time to time. Within 10 calendar days of the close of the hearing, the hearing body shall issue a written decision to uphold or reject, in whole or in part, the allegations contained in the notice. If the hearing body upholds the allegations in whole or in part, the written decision shall state either that the allegations are sufficient to justify seeking termination of the taxicab operator's telephone service, or that the allegations are not sufficient.

(f) (1) If the local agency does not receive a timely protest, or, after a protest hearing held pursuant to subdivision (d), the hearing body has determined that the allegations are sufficient to justify seeking termination of the telephone operator's telephone service, the local agency may seek termination of the taxicab operator's telephone service as provided in this section.

(2) A telephone or telegraph corporation shall refuse telephone service to a new subscriber and shall disconnect telephone service of an existing subscriber only after it is shown that other available enforcement remedies of the local agency have failed to terminate unlawful activities detrimental to the public welfare and safety, and upon receipt from any authorized officer or employee of the local agency of a writing, signed by a magistrate, as defined by Sections 807 and 808 of the Penal Code, finding that probable cause exists to believe that the subscriber is advertising or holding out to the public to perform taxicab transportation services in violation of the local agency's applicable ordinance, or that the telephone service otherwise is being used or is to be used as an instrumentality, directly or indirectly, to violate or assist in violation of the laws requiring a taxicab operator to have valid operating authority. Included in the writing of the magistrate shall be a finding that there is probable cause to believe that the subject telephone facilities have been, or are to be, used in the commission or facilitation of holding out to the public to perform taxicab transportation services in violation of the local agency's applicable ordinance.

(g) The telephone or telegraph corporation, immediately upon refusal or disconnection of service in accordance with paragraph (2) of subdivision (f), shall notify the subscriber in writing that the refusal or disconnection of telephone service has been made pursuant to a request of a local agency and the writing of a magistrate, and shall include a copy of this section, a copy of the writing of the magistrate, and a statement that the customer of the subscriber may request information from the local agency concerning any provision of this section and the manner in which a complaint may be filed.

(h) The provisions of this section are an implied term of every contract for telephone service and a part of any application for telephone service. Applicants for, and subscribers and customers of, telephone service, have, as a matter of law, consented to the

provisions of this section as a consideration for the furnishing of the telephone service.

(i) As used in this section, the terms “person,” “customer,” and “subscriber” include the subscriber to telephone service, any person using the telephone service of a subscriber, an applicant for telephone service, a corporation, a limited liability company, a partnership, an association, and includes their lessees and assigns.

(j) As used in this section, the following terms have the following meanings:

(1) “Authorized officer or employee of the local agency” includes any employee of the local agency designated by the local agency’s governing body.

(2) “Local agency” has the same meaning as specified in subdivision (b) of Section 53075.7.

(3) “Telegraph corporation” has the same meaning as specified in Section 236 of the Public Utilities Code.

(4) “Telephone corporation” has the same meaning as specified in Section 234 of the Public Utilities Code.

SEC. 3. Section 53075.9 is added to the Government Code, to read:

53075.9. (a) Every taxicab transportation service shall include the number of its certificate, license, or permit in every written or oral advertisement of the services it offers.

(b) For purposes of this subdivision, “advertisement” includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing the placement of any sign or marking on or in any building or structure, or in any media form, including newspaper, magazine, radiowave, satellite signal, or any electronic transmission, or in any directory soliciting taxicab transportation services subject to this chapter.

(c) Whenever the local agency, after a hearing, finds that any person or corporation is operating as a taxicab transportation service without a valid certificate, license, or permit or fails to include in any written or oral advertisement the number required by subdivision (a) of Section 50739, the local agency may impose a fine of not more than five thousand dollars (\$5,000) for each violation. The local agency may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the local agency. The local agency may assess interest on any fine or assessment imposed, to commence

on the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in a fund established for the purpose of enforcing the provisions of this section.

(d) For purposes of this section, “local agency” has the same meaning as specified in subdivision (b) of Section 53075.7.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

Approved _____, 2008

Governor